

ASSEMBLY BILL

No. 1939

Introduced by Assembly Member DeSaulnier

February 12, 2008

An act to amend Sections 2982 and 2985.8 of the Civil Code and to amend Section 11713.1 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1939, as introduced, DeSaulnier. Vehicles: document preparation charges.

Under existing law, it is a violation of the Vehicle Code for the holder of a vehicle dealer's license to commit specified actions, including, among other things, to advertise the total price of a vehicle without including all costs to the purchaser at the time of sale, except taxes, vehicle registration fees, the California tire fee, as defined, emission testing fees not exceeding \$50, actual fees charged for certificates, finance charges, and a dealer document preparation charge. Existing law prohibits the dealer document preparation charge from exceeding \$55. Existing law requires vehicle sale contracts and lease contracts to make various disclosures, including a disclosure of the fee retained by the seller for document preparation. Existing law prohibits the document preparation fee retained by a lessor from exceeding \$45.

This bill would change the reference to the fee charged for document preparation from a document preparation charge to a document processing charge and would increase to \$65 the maximum document processing charge retained by a dealer or lessor.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2982 of the Civil Code is amended to read:

2982. A conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z, whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled “itemization of the amount financed:”

(1) (A) The cash price, exclusive of document ~~preparation fees~~ *processing charges*, business partnership automation fees, taxes imposed on the sale, pollution control certification fees, prior credit or lease balance on property being traded in, the amount charged for a service contract, the amount charged for a theft deterrent system, the amount charged for a surface protection product, the amount charged for an optional debt cancellation agreement, and the amount charged for a contract cancellation option agreement.

(B) The ~~fee charge~~ *charge* to be retained by the seller for document ~~preparation~~ *processing*.

(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.

(D) A charge for a theft deterrent device.

(E) A charge for a surface protection product.

(F) Taxes imposed on the sale.

(G) The amount of any optional business partnership automation fee to register or transfer the vehicle, which shall be labeled “Optional DMV Electronic Filing Fee.”

(H) The amount charged for a service contract.

(I) The prior credit or lease balance remaining on property being traded in, as required by paragraph (6). The disclosure required

1 by this subparagraph shall be labeled “prior credit or lease balance
2 (see downpayment and trade-in calculation).”

3 (J) ~~Any~~The charge for an optional debt cancellation agreement.

4 (K) ~~Any~~The charge for a used vehicle contract cancellation
5 option agreement.

6 (L) The total cash price, which is the sum of subparagraphs (A)
7 to (K), inclusive.

8 (M) The disclosures described in subparagraphs (D), (E), and
9 (K) are not required on contracts involving the sale of a motorcycle,
10 as defined in Section 400 of the Vehicle Code, or on contracts
11 involving the sale of an off-highway motor vehicle that is subject
12 to identification under Section 38010 of the Vehicle Code, and the
13 amounts of those charges, if any, are not required to be reflected
14 in the total price under subparagraph (L).

15 (2) Amounts paid to public officials for the following:

16 (A) Vehicle license fees.

17 (B) Registration, transfer, and titling fees.

18 (C) California tire fees imposed pursuant to Section 42885 of
19 the Public Resources Code.

20 (3) The aggregate amount of premiums agreed, upon execution
21 of the contract, to be paid for policies of insurance included in the
22 contract, excluding the amount of any insurance premium included
23 in the finance charge.

24 (4) The amount of the state fee for issuance of a certificate of
25 compliance, noncompliance, exemption, or waiver pursuant to any
26 applicable pollution control statute.

27 (5) A subtotal representing the sum of the foregoing items.

28 (6) The amount of the buyer’s downpayment itemized to show
29 the following:

30 (A) The agreed value of the property being traded in.

31 (B) The prior credit or lease balance, if any, owing on the
32 property being traded in.

33 (C) The net agreed value of the property being traded in, which
34 is the difference between the amounts disclosed in subparagraphs
35 (A) and (B). If the prior credit or lease balance of the property
36 being traded in exceeds the agreed value of the property, a negative
37 number shall be stated.

38 (D) The amount of any portion of the downpayment to be
39 deferred until not later than the due date of the second regularly

1 scheduled installment under the contract and that is not subject to
2 a finance charge.

3 (E) The amount of any manufacturer's rebate applied or to be
4 applied to the downpayment.

5 (F) The remaining amount paid or to be paid by the buyer as a
6 downpayment.

7 (G) The total downpayment. If the sum of subparagraphs (C)
8 to (F), inclusive, is zero or more, that sum shall be stated as the
9 total downpayment and no amount shall be stated as the prior credit
10 or lease balance under subparagraph (I) of paragraph (1). If the
11 sum of subparagraphs (C) to (F), inclusive, is less than zero, then
12 that sum, expressed as a positive number, shall be stated as the
13 prior credit or lease balance under subparagraph (I) of paragraph
14 (1), and zero shall be stated as the total downpayment. The
15 disclosure required by this subparagraph shall be labeled "total
16 downpayment" and shall contain a descriptor indicating that if the
17 total downpayment is a negative number, a zero shall be disclosed
18 as the total downpayment and a reference made that the remainder
19 shall be included in the disclosure required pursuant to
20 subparagraph (I) of paragraph (1).

21 (7) The amount of any administrative finance charge, labeled
22 "prepaid finance charge."

23 (8) The difference between item (5) and the sum of items (6)
24 and (7), labeled "amount financed."

25 (b) No particular terminology is required to disclose the items
26 set forth in subdivision (a) except as expressly provided in that
27 subdivision.

28 (c) If payment of all or a portion of the downpayment is to be
29 deferred, the deferred payment shall be reflected in the payment
30 schedule disclosed pursuant to Regulation Z.

31 (d) If the downpayment includes property being traded in, the
32 contract shall contain a brief description of that property.

33 (e) The contract shall contain the names and addresses of all
34 persons to whom the notice required under Section 2983.2 and
35 permitted under Sections 2983.5 and 2984 is to be sent.

36 (f) (1) If the contract includes a finance charge determined on
37 the precomputed basis, the contract shall identify the method of
38 computing the unearned portion of the finance charge in the event
39 of prepayment in full of the buyer's obligation and contain a
40 statement of the amount or method of computation of any charge

1 that may be deducted from the amount of any unearned finance
2 charge in computing the amount that will be credited to the
3 obligation or refunded to the buyer. The method of computing the
4 unearned portion of the finance charge shall be sufficiently
5 identified with a reference to the actuarial method if the
6 computation will be under that method. The method of computing
7 the unearned portion of the finance charge shall be sufficiently
8 identified with a reference to the Rule of 78's, the sum of the digits,
9 or the sum of the periodic time balances method in all other cases,
10 and those references shall be deemed to be equivalent for disclosure
11 purposes.

12 (2) If the contract includes a finance charge that is determined
13 on the simple-interest basis but provides for a minimum finance
14 charge in the event of prepayment in full, the contract shall contain
15 a statement of that fact and the amount of the minimum finance
16 charge or its method of calculation.

17 (g) (1) If the contract includes a finance charge that is
18 determined on the precomputed basis and provides that the
19 unearned portion of the finance charge to be refunded upon full
20 prepayment of the contract is to be determined by a method other
21 than actuarial, the contract shall contain a notice, in at least
22 10-point boldface type if the contract is printed, reading as
23 follows: "Notice to buyer: (1) Do not sign this agreement before
24 you read it or if it contains any blank spaces to be filled in. (2)
25 You are entitled to a completely filled-in copy of this agreement.
26 (3) You can prepay the full amount due under this agreement at
27 any time and obtain a partial refund of the finance charge if it is
28 \$1 or more. Because of the way the amount of this refund will be
29 figured, the time when you prepay could increase the ultimate cost
30 of credit under this agreement. (4) If you default in the performance
31 of your obligations under this agreement, the vehicle may be
32 repossessed and you may be subject to suit and liability for the
33 unpaid indebtedness evidenced by this agreement."

34 (2) If the contract includes a finance charge that is determined
35 on the precomputed basis and provides for the actuarial method
36 for computing the unearned portion of the finance charge upon
37 prepayment in full, the contract shall contain a notice, in at least
38 10-point boldface type if the contract is printed, reading as
39 follows: "Notice to buyer: (1) Do not sign this agreement before
40 you read it or if it contains any blank spaces to be filled in. (2)

1 You are entitled to a completely filled-in copy of this agreement.
2 (3) You can prepay the full amount due under this agreement at
3 any time and obtain a partial refund of the finance charge if it is
4 \$1 or more. (4) If you default in the performance of your
5 obligations under this agreement, the vehicle may be repossessed
6 and you may be subject to suit and liability for the unpaid
7 indebtedness evidenced by this agreement.”

8 (3) If the contract includes a finance charge that is determined
9 on the simple-interest basis, the contract shall contain a notice, in
10 at least 10-point boldface type if the contract is printed, reading
11 as follows: “Notice to buyer: (1) Do not sign this agreement
12 before you read it or if it contains any blank spaces to be filled in.
13 (2) You are entitled to a completely filled-in copy of this
14 agreement. (3) You can prepay the full amount due under this
15 agreement at any time. (4) If you default in the performance of
16 your obligations under this agreement, the vehicle may be
17 repossessed and you may be subject to suit and liability for the
18 unpaid indebtedness evidenced by this agreement.”

19 (h) The contract shall contain a notice in at least 8-point boldface
20 type, acknowledged by the buyer, that reads as follows:

21 “If you have a complaint concerning this sale, you should try to
22 resolve it with the seller.

23 Complaints concerning unfair or deceptive practices or methods
24 by the seller may be referred to the city attorney, the district
25 attorney, or an investigator for the Department of Motor Vehicles,
26 or any combination thereof.

27 After this contract is signed, the seller may not change the
28 financing or payment terms unless you agree in writing to the
29 change. You do not have to agree to any change, and it is an unfair
30 or deceptive practice for the seller to make a unilateral change.

31
32 _____
Buyer’s Signature”

33 (i) (1) The contract shall contain an itemization of any insurance
34 included as part of the amount financed disclosed pursuant to
35 paragraph (3) of subdivision (a) and of any insurance included as
36 part of the finance charge. The itemization shall identify the type
37 of insurance coverage and the premium charged therefor, and, if
38 the insurance expires before the date of the last scheduled
39 installment included in the repayment schedule, the term of the
40 insurance shall be stated.

(2) If any charge for insurance, other than for credit life or disability, is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) Except for contracts in which the finance charge or portion thereof is determined by the simple-interest basis and the amount financed disclosed pursuant to paragraph (8) of subdivision (a) is more than two thousand five hundred dollars (\$2,500), the dollar amount of the disclosed finance charge may not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars (\$225), 1 1/6 percent on so much of the unpaid balance in excess of two hundred twenty-five dollars (\$225) as does not exceed nine hundred dollars (\$900) and five-sixths of 1 percent on so much of the unpaid balance in excess of nine hundred dollars (\$900) as does not exceed two thousand five hundred dollars (\$2,500).

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment.

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars (\$25).

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000).

(ii) Fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000).

(iii) Seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(2) The holder of the contract may not charge, collect, or receive a finance charge that exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract that provides for determination of the

1 finance charge or a portion thereof on the 365-day basis at a time
2 or times other than as originally scheduled whether or not the
3 parties enter into an agreement pursuant to Section 2982.3, (B)
4 permitted by paragraph (2), (3), or (4) of subdivision (c) of Section
5 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and
6 (c) of Section 2982.8.

7 (3) If the finance charge or a portion thereof is determined by
8 the simple-interest basis and the amount of the unpaid balance
9 exceeds five thousand dollars (\$5,000), the holder of the contract
10 may, in lieu of its right to a minimum finance charge under
11 subparagraph (C) of paragraph (1), charge, receive, or collect on
12 the date of the contract an administrative finance charge not to
13 exceed seventy-five dollars (\$75), provided that the sum of the
14 administrative finance charge and the portion of the finance charge
15 determined by the simple-interest basis shall not exceed the
16 maximum total finance charge permitted by subparagraph (A) of
17 paragraph (1). Any administrative finance charge that is charged,
18 received, or collected by a holder shall be deemed a finance charge
19 earned on the date of the contract.

20 (4) If a contract provides for unequal or irregular payments, or
21 payments on other than a monthly basis, the maximum finance
22 charge shall be at the effective rate provided for in paragraph (1),
23 having due regard for the schedule of installments.

24 (k) The contract may provide that for each installment in default
25 for a period of not less than 10 days the buyer shall pay a
26 delinquency charge in an amount not to exceed in the aggregate 5
27 percent of the delinquent installment, which amount may be
28 collected only once on any installment regardless of the period
29 during which it remains in default. Payments timely received by
30 the seller under an extension or deferral agreement may not be
31 subject to a delinquency charge unless the charge is permitted by
32 Section 2982.3. The contract may provide for reasonable collection
33 costs and fees in the event of delinquency.

34 (l) Notwithstanding any provision of a contract to the contrary,
35 the buyer may pay at any time before maturity the entire
36 indebtedness evidenced by the contract without penalty. In the
37 event of prepayment in full:

38 (1) If the finance charge was determined on the precomputed
39 basis, the amount required to prepay the contract shall be the
40 outstanding contract balance as of that date, provided, however,

1 that the buyer shall be entitled to a refund credit in the amount of
2 the unearned portion of the finance charge, except as provided in
3 paragraphs (3) and (4). The amount of the unearned portion of the
4 finance charge shall be at least as great a proportion of the finance
5 charge, including any additional finance charge imposed pursuant
6 to Section 2982.8 or other additional charge imposed because the
7 contract has been extended, deferred, or refinanced, as the sum of
8 the periodic monthly time balances payable more than 15 days
9 after the date of prepayment bears to the sum of all the periodic
10 monthly time balances under the schedule of installments in the
11 contract or, if the contract has been extended, deferred, or
12 refinanced, as so extended, deferred, or refinanced. If the amount
13 of the refund credit is less than one dollar (\$1), no refund credit
14 need be made by the holder. Any refund credit may be made in
15 cash or credited to the outstanding obligations of the buyer under
16 the contract.

17 (2) If the finance charge or a portion thereof was determined
18 on the simple-interest basis, the amount required to prepay the
19 contract shall be the outstanding contract balance as of that date,
20 including any earned finance charges that are unpaid as of that
21 date and, if applicable, the amount provided in paragraph (3), and
22 provided further that in cases where a finance charge is determined
23 on the 360-day basis, the payments theretofore received will be
24 assumed to have been received on their respective due dates
25 regardless of the actual dates on which the payments were received.

26 (3) Where the minimum finance charge provided by
27 subparagraph (B) or subparagraph (C) of paragraph (1) of
28 subdivision (j), if either is applicable, is greater than the earned
29 finance charge as of the date of prepayment, the holder shall be
30 additionally entitled to the difference.

31 (4) The provisions of this subdivision may not impair the right
32 of the seller or the seller's assignee to receive delinquency charges
33 on delinquent installments and reasonable costs and fees as
34 provided in subdivision (k) or extension or deferral agreement
35 charges as provided in Section 2982.3.

36 (5) Notwithstanding any provision of a contract to the contrary,
37 whenever the indebtedness created by any contract is satisfied
38 prior to its maturity through surrender of the motor vehicle,
39 repossession of the motor vehicle, redemption of the motor vehicle
40 after repossession, or any judgment, the outstanding obligation of

1 the buyer shall be determined as provided in paragraph (1) or (2).
2 Notwithstanding, the buyer's outstanding obligation shall be
3 computed by the holder as of the date the holder recovers the value
4 of the motor vehicle through disposition thereof or judgment is
5 entered or, if the holder elects to keep the motor vehicle in
6 satisfaction of the buyer's indebtedness, as of the date the holder
7 takes possession of the motor vehicle.

8 (m) Notwithstanding any other provision of this chapter to the
9 contrary, any information required to be disclosed in a conditional
10 sale contract under this chapter may be disclosed in any manner,
11 method, or terminology required or permitted under Regulation
12 Z, as in effect at the time that disclosure is made, except that
13 permitted by paragraph (2) of subdivision (c) of Section 226.18
14 of Regulation Z, provided that all of the requirements and
15 limitations set forth in subdivision (a) of this section are satisfied.
16 This chapter does not prohibit the disclosure in that contract of
17 additional information required or permitted under Regulation Z,
18 as in effect at the time that disclosure is made.

19 (n) If the seller imposes a *fee charge* for document ~~preparation~~
20 *processing*, the contract shall contain a disclosure that the fee is
21 not a governmental fee.

22 (o) A seller may not impose an application fee for a transaction
23 governed by this chapter.

24 (p) The seller or holder may charge and collect a fee not to
25 exceed fifteen dollars (\$15) for the return by a depository institution
26 of a dishonored check, negotiated order of withdrawal, or share
27 draft issued in connection with the contract, if the contract so
28 provides or if the contract contains a generalized statement that
29 the buyer may be liable for collection costs incurred in connection
30 with the contract.

31 (q) The contract shall disclose on its face, by printing the word
32 "new" or "used" within a box outlined in red, that is not smaller
33 than one-half inch high and one-half inch wide, whether the vehicle
34 is sold as a new vehicle, as defined in Section 430 of the Vehicle
35 Code, or as a used vehicle, as defined in Section 665 of the Vehicle
36 Code.

37 (r) The contract shall contain a notice with a heading in at least
38 12-point bold type and the text in at least 10-point bold type,
39 circumscribed by a line, immediately above the contract signature
40 line, that reads as follows:

1 THERE IS NO COOLING-OFF PERIOD UNLESS YOU
2 OBTAIN A CONTRACT CANCELLATION OPTION.

3
4 California law does not provide for a “cooling-off” or other cancellation
5 period for vehicle sales. Therefore, you cannot later cancel this contract
6 simply because you change your mind, decide the vehicle costs too much,
7 or wish you had acquired a different vehicle. After you sign below, you
8 may only cancel this contract with the agreement of the seller or for legal
9 cause, such as fraud.

10 However, California law does require a seller to offer a 2-day contract
11 cancellation option on used vehicles with a purchase price of less than
12 \$40,000, subject to certain statutory conditions. This contract cancellation
13 option requirement does not apply to the sale of a recreational vehicle, a
14 motorcycle, or an off-highway motor vehicle subject to identification
15 under California law. See the vehicle contract cancellation option
16 agreement for details.

17
18 SEC. 2. Section 2985.8 of the Civil Code is amended to read:

19 2985.8. (a) ~~Every~~A lease contract shall be in writing and the
20 print portion of the contract shall be printed in at least 8-point type
21 and shall contain in a single document all of the agreements of the
22 lessor and lessee with respect to the obligations of ~~each party~~ *the*
23 *parties*.

24 (b) At the top of the lease contract, a title which contains the
25 words “LEASE CONTRACT” or “LEASE AGREEMENT” shall
26 appear in at least 12-point boldface type.

27 (c) ~~Every~~A lease contract shall disclose all of the following:

28 (1) All of the information prescribed by Regulation M set forth
29 in the manner required or permitted by Regulation M, whether or
30 not Regulation M applies to the transaction.

31 (2) A separate statement labeled “Itemization of Gross
32 Capitalized Cost” that shall appear immediately following or
33 directly adjacent to the disclosures required to be segregated by
34 Regulation M. The Itemization of Gross Capitalized Cost shall
35 include all of the following and shall be circumscribed by a line:

36 (A) The agreed-upon value of the vehicle as equipped at the
37 time of signing the lease.

38 (B) The agreed-upon value and a description of each accessory
39 and item of optional equipment the lessor agrees to add to the
40 vehicle after signing the lease.

- 1 (C) The premium for each policy of insurance.
2 (D) The amount charged for each service contract.
3 (E) Any charge for an optional debt cancellation agreement.
4 (F) Any outstanding prior credit or lease balance.
5 (G) An itemization by type and agreed-upon value of each good
6 or service included in the gross capitalized cost other than those
7 items included in the disclosures required in subparagraphs (A) to
8 (F), inclusive.

9 (3) The vehicle identification number of the leased vehicle.

10 (4) A brief description of ~~each~~ *the* vehicle or other property
11 being traded in and the agreed-upon value thereof if the amount
12 due at the time of signing the lease or upon delivery is paid in
13 whole or in part with a net trade-in allowance or the “Itemization
14 of Gross Capitalized Cost” includes any portion of the outstanding
15 prior credit or lease balance from the trade-in property.

16 (5) The ~~fee charge~~, if any, to be retained by the lessor for *dealer*
17 *document preparation, which fee may processing. The charge for*
18 *dealer document processing shall not exceed forty-five dollars*
19 ~~(\$45) sixty-five dollars (\$65) and may~~ *shall* not be represented as
20 a governmental fee.

21 (6) The amount of any optional business partnership automation
22 program fee to register or transfer the vehicle, which shall be
23 labeled “Optional DMV Electronic Filing Fee.”

24 (d) ~~Every~~ A lease contract shall contain, in at least 8-point
25 boldface type, above the space provided for the lessee’s signature
26 and circumscribed by a line, the following notice: “(1) Do not sign
27 this lease before you read it or if it contains any blank spaces to
28 be filled in; (2) You are entitled to a completely filled in copy of
29 this lease; (3) Warning—Unless a charge is included in this lease
30 for public liability or property damage insurance, payment for that
31 coverage is not provided by this lease.”

32 (e) ~~Every~~ A lease contract shall contain, in at least 8-point
33 boldface type, on the first page of the contract and circumscribed
34 by a line, the following notice:

35
36 “THERE IS NO COOLING OFF PERIOD
37

38 California law does not provide for a “cooling off” or other
39 cancellation period for vehicle leases. Therefore, you cannot later
40 cancel this lease simply because you change your mind, decided

1 the vehicle costs too much, or wish you had acquired a different
2 vehicle. You may cancel this lease only with the agreement of the
3 lessor or for legal cause, such as fraud.”

4 (f) ~~Every~~ A lease contract shall contain, in at least 8-point
5 boldface type, the following notice: “You have the right to return
6 the vehicle, and receive a refund of any payments made if the credit
7 application is not approved, unless nonapproval results from an
8 incomplete application or from incorrect information provided by
9 you.”

10 (g) The lease contract shall be signed by the lessor and lessee,
11 or their authorized representatives, and an exact copy of the fully
12 executed lease contract shall be provided to the lessee at the time
13 of signing.

14 (h) No motor vehicle shall be delivered under a lease contract
15 subject to this chapter until the lessor provides to the lessee a fully
16 executed copy of the lease contract.

17 (i) The lessor may not obtain the signature of the lessee to a
18 contract when it contains blank spaces to be filled in after it has
19 been signed.

20 (j) If the lease contract contains a provision that holds the lessee
21 liable for the difference between (1) the adjusted capitalized cost
22 disclosed in the lease contract reduced by the amounts described
23 in subparagraph (A) of paragraph (5) of subdivision (b) of Section
24 2987 and (2) the settlement proceeds of the lessee’s required
25 insurance and deductible in the event of theft or damage to the
26 vehicle that results in a total loss, the lease contract shall contain
27 the following notice in at least 8-point boldface type on the first
28 page of the contract:

29
30 “GAP LIABILITY NOTICE

31
32 In the event of theft or damage to the vehicle that results in a
33 total loss, there may be a GAP between the amount due upon early
34 termination and the proceeds of your insurance settlement and
35 deductible. THIS LEASE PROVIDES THAT YOU ARE LIABLE
36 FOR THE GAP AMOUNT. Optional coverage for the GAP amount
37 may be offered for an additional price.”

38 SEC. 3. Section 11713.1 of the Vehicle Code is amended to
39 read:

1 11713.1. It is a violation of this code for the holder of a dealer's
2 license issued under this article to do any of the following:

3 (a) Advertise a specific vehicle for sale without identifying the
4 vehicle by its model, model-year, and either its license number or
5 that portion of the vehicle identification number that distinguishes
6 the vehicle from all other vehicles of the same make, model, and
7 model-year. Model-year is not required to be advertised for current
8 model-year vehicles. Year models are no longer current when
9 ensuing year models are available for purchase at retail in
10 California. ~~Any~~ *An* advertisement that offers for sale a class of
11 new vehicles in a dealer's inventory, consisting of five or more
12 vehicles, that are all of the same make, model, and model-year is
13 not required to include in the advertisement the vehicle
14 identification numbers or license numbers of those vehicles.

15 (b) Advertise the total price of a vehicle without including all
16 costs to the purchaser at time of sale, except taxes, vehicle
17 registration fees, the California tire fee, as defined in Section 42885
18 of the Public Resources Code, emission testing fees not exceeding
19 fifty dollars (\$50), actual fees charged for certificates pursuant to
20 Section 44060 of the Health and Safety Code, finance charges,
21 and any dealer document ~~preparation~~ *processing* charge. The dealer
22 document ~~preparation~~ *processing* charge shall not exceed ~~fifty-five~~
23 ~~dollars (\$55)~~ *sixty-five dollars (\$65)*.

24 (c) (1) Exclude from an advertisement of a vehicle for sale that
25 there will be added to the advertised total price at the time of sale,
26 charges for sales tax, vehicle registration fees, the California tire
27 fee, the fee charged by the state for the issuance of a certificate of
28 compliance or noncompliance pursuant to a statute, finance
29 charges, and a dealer document ~~preparation~~ *processing* charge.

30 (2) The obligations imposed by paragraph (1) are satisfied by
31 adding to the advertisement a statement containing no abbreviations
32 and that is worded in substantially the following form: "Plus
33 government fees and taxes, any finance charges, any dealer
34 document ~~preparation~~ *processing* charge, and any emission testing
35 charge."

36 (3) For purposes of paragraph (1), "advertisement" means an
37 advertisement in a newspaper, magazine, or direct mail publication
38 that is two or more columns in width or one column in width and
39 more than seven inches in length, or on a Web page of a dealer's
40 Web site that displays the price of a vehicle offered for sale on the

Internet, as that term is defined in paragraph (6) of subdivision (e) of Section 17538 of the Business and Professions Code.

(d) Represent the dealer document ~~preparation~~ *processing* charge or certificate of compliance or noncompliance fee, as a governmental fee.

(e) Fail to sell a vehicle to a person at the advertised total price, exclusive of taxes, vehicle registration fees, the California tire fee, the fee charged by the state for the issuance of a certificate of compliance or noncompliance pursuant to a statute, finance charges, mobilehome escrow fees, the amount of a city, county, or city and county imposed fee or tax for a mobilehome, and a dealer document ~~preparation~~ *processing* charge, ~~which charges shall not exceed fifty-five dollars (\$55) for the document preparation charge and not to exceed fifty dollars (\$50) for emission testing.~~ *The document processing charge shall not exceed sixty-five dollars (\$65) and the emission testing charge shall not exceed fifty dollars (\$50) plus the actual fees charged for certificates pursuant to Section 44060 of the Health and Safety Code, while the vehicle remains unsold, unless the advertisement states the advertised total price is good only for a specified time and the time has elapsed.* ~~Advertised vehicles~~ *An advertised vehicle* shall be sold at or below the advertised total price, with statutorily permitted exclusions, regardless of whether the purchaser has knowledge of the advertised total price.

(f) (1) Advertise for sale, sell, or purchase for resale a new vehicle of a line-make for which the dealer does not hold a franchise.

(2) This subdivision does not apply to a transaction involving the following:

(A) A mobilehome.

(B) A recreational vehicle as defined in Section 18010 of the Health and Safety Code.

(C) A commercial coach, as defined in Section 18001.8 of the Health and Safety Code.

(D) An off-highway motor vehicle subject to identification as defined in Section 38012.

(E) A manufactured home.

(F) A new vehicle that will be substantially altered or modified by a converter prior to resale.

1 (G) A commercial vehicle with a gross vehicle weight rating of
2 more than 10,000 pounds.

3 (H) A vehicle purchased for export and exported outside the
4 territorial limits of the United States without being registered with
5 the department.

6 (g) Sell a park trailer, as specified in Section 18009.3 of the
7 Health and Safety Code, without disclosing in writing to the
8 purchaser that a park trailer is required to be moved by a transporter
9 or a licensed manufacturer or dealer under a permit issued by the
10 Department of Transportation or a local authority with respect to
11 highways under their respective jurisdictions.

12 (h) Advertise free merchandise, gifts, or services provided by
13 a dealer contingent on the purchase of a vehicle. "Free" includes
14 merchandise or services offered for sale at a price less than the
15 seller's cost of the merchandise or services.

16 (i) (1) Advertise vehicles, and related goods or services, at a
17 specified dealer price, with the intent not to supply reasonably
18 expectable demand, unless the advertisement discloses the number
19 of vehicles in stock at the advertised price. In addition, whether
20 or not there are sufficient vehicles in stock to supply a reasonably
21 expectable demand, when phrases such as "starting at," "from,"
22 "beginning as low as," or words of similar import are used in
23 reference to an advertised price, the advertisement shall disclose
24 the number of vehicles available at that advertised price.

25 (2) For purposes of this subdivision, in a newspaper
26 advertisement for a vehicle that is two model-years old or newer,
27 the actual phrase that states the number of vehicles in stock at the
28 advertised price shall be printed in a type size that is at least equal
29 to one-quarter of the type size, and in the same style and color of
30 type, used for the advertised price. However, in no case shall the
31 phrase be printed in less than 8-point type size, and the phrase
32 shall be disclosed immediately above, below, or beside the
33 advertised price without intervening words, pictures, marks, or
34 symbols.

35 (3) The disclosure required by this subdivision is in addition to
36 any other disclosure required by this code or any regulation
37 regarding identifying vehicles advertised for sale.

38 (j) Use "rebate" or similar words, including, but not limited to,
39 "cash back," in advertising the sale of a vehicle unless the rebate
40 is expressed in a specific dollar amount and is in fact a rebate

1 offered by the vehicle manufacturer or distributor directly to the
2 retail purchaser of the vehicle or to the assignee of the retail
3 purchaser.

4 (k) Require a person to pay a higher price for a vehicle and
5 related goods or services for receiving advertised credit terms than
6 the cash price the same person would have to pay to purchase the
7 same vehicle and related goods or services. For the purpose of this
8 subdivision, “cash price” has the meaning as defined in subdivision
9 (e) of Section 2981 of the Civil Code.

10 (l) Advertise a guaranteed trade-in allowance.

11 (m) Misrepresent the authority of a salesperson, representative,
12 or agent to negotiate the final terms of a transaction.

13 (n) (1) Use “invoice,” “dealer’s invoice,” “wholesale price,”
14 or similar terms that refer to a dealer’s cost for a vehicle in an
15 advertisement for the sale of a vehicle or advertise that the selling
16 price of a vehicle is above, below, or at either of the following:

17 (A) The manufacturer’s or distributor’s invoice price to a dealer.

18 (B) A dealer’s cost.

19 (2) This subdivision does not apply to either of the following:

20 (A) A communication occurring during face-to-face negotiations
21 for the purchase of a specific vehicle if the prospective purchaser
22 initiates a discussion of the vehicle’s invoice price or the dealer’s
23 cost for that vehicle.

24 (B) A communication between a dealer and a prospective
25 commercial purchaser that is not disseminated to the general public.
26 For purposes of this subparagraph, a “commercial purchaser”
27 means a dealer, lessor, lessor-retailer, manufacturer,
28 remanufacturer, distributor, financial institution, governmental
29 entity, or person who purchases 10 or more vehicles during a year.

30 (o) Violate a law prohibiting bait and switch advertising,
31 including, but not limited to, the guides against bait advertising
32 set forth in Part 238 (commencing with Section 238) of Title 16
33 of the Code of Federal Regulations, as those regulations read on
34 January 1, 1988.

35 (p) Make an untrue or misleading statement indicating that a
36 vehicle is equipped with all the factory-installed optional equipment
37 the manufacturer offers, including, but not limited to, a false
38 statement that a vehicle is “fully factory equipped.”

39 (q) Affix on a new vehicle a supplemental price sticker
40 containing a price that represents the dealer’s asking price that

1 exceeds the manufacturer's suggested retail price unless all of the
2 following occur:

3 (1) The supplemental sticker clearly and conspicuously discloses
4 in the largest print appearing on the sticker, other than the print
5 size used for the dealer's name, that the supplemental sticker price
6 is the dealer's asking price, or words of similar import, and that it
7 is not the manufacturer's suggested retail price.

8 (2) The supplemental sticker clearly and conspicuously discloses
9 the manufacturer's suggested retail price.

10 (3) The supplemental sticker lists each item that is not included
11 in the manufacturer's suggested retail price, and discloses the
12 additional price of each item. If the supplemental sticker price is
13 greater than the sum of the manufacturer's suggested retail price
14 and the price of the items added by the dealer, the supplemental
15 sticker price shall set forth that difference and describe it as "added
16 mark-up."

17 (r) Advertise an underselling claim, including, but not limited
18 to, "we have the lowest prices" or "we will beat any dealer's price,"
19 unless the dealer has conducted a recent survey showing that the
20 dealer sells its vehicles at lower prices than another licensee in its
21 trade area and maintains records to adequately substantiate the
22 claims. The substantiating records shall be made available to the
23 department upon request.

24 (s) (1) Advertise an incentive offered by the manufacturer or
25 distributor if the dealer is required to contribute to the cost of the
26 incentive as a condition of participating in the incentive program,
27 unless the dealer discloses in a clear and conspicuous manner that
28 dealer participation may affect consumer cost.

29 (2) For purposes of this subdivision, "incentive" means anything
30 of value offered to induce people to purchase a vehicle, including,
31 but not limited to, discounts, savings claims, rebates, below-market
32 finance rates, and free merchandise or services.

33 (t) Display or offer for sale a used vehicle unless there is affixed
34 to the vehicle the Federal Trade Commission's Buyer's Guide as
35 required by Part 455 of Title 16 of the Code of Federal Regulations.

36 (u) Fail to disclose in writing to the franchisor of a new motor
37 vehicle dealer the name of the purchaser, date of sale, and the
38 vehicle identification number of each new motor vehicle sold of
39 the line-make of that franchisor, or intentionally submit to that

1 franchisor a false name for the purchaser or false date for the date
2 of sale.

3 (v) Enter into a contract for the retail sale of a motor vehicle
4 unless the contract clearly and conspicuously discloses whether
5 the vehicle is being sold as a new vehicle or a used vehicle, as
6 defined in this code.

7 (w) Use a simulated check, as defined in subdivision (a) of
8 Section 22433 of the Business and Professions Code, in an
9 advertisement for the sale or lease of a vehicle.

10 (x) Fail to disclose, in a clear and conspicuous manner in at
11 least 10-point boldface type on the face of a contract for the retail
12 sale of a new motor vehicle that this transaction is, or is not, subject
13 to a fee received by an autobroker from the selling new motor
14 vehicle dealer, and the name of the autobroker, if applicable.

15 (y) As used in this section, “make” and “model” have the same
16 meaning as is provided in Section 565.3 of Title 49 of the Code
17 of Federal Regulations.